

REMARKS

In response to the Office Action of May 31, 2006, Applicant asks that all claims be allowed in view of the following remarks. Claims 1-33 are pending, with claims 1, 19, and 31 being independent. Claims 19 and 31 have been amended. Support for the amendments may be found in the application at, for example, page 4, lines 3-12. No new matter has been added.

Rejections under 35 U.S.C. § 112

Claims 19-31 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended independent claims 19 and 31 to address the Examiner's concerns related to the rejection of these claims under 35 U.S.C. § 101, as discussed below. These amendments also are believed to address the Examiner's concerns related to 35 U.S.C. § 112, second paragraph. Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, of independent claims 19 and 31, along with dependent claims 20-30, which depend from independent claim 19.

Rejections under 35 U.S.C. § 101

Claims 19-31 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In response, independent claims 19 and 31 have been amended to address the Examiner's concerns. Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection of independent claims 19 and 31, along with dependent claims 20-30, which depend from independent claim 19.

Rejections based on Monteiro

Claims 1, 5-9, 11, 14-21, 23, and 26-33 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,119,163 ("Monteiro"). Applicant requests reconsideration and withdrawal of the rejections because Monteiro does not teach a method of

“from the source, accessing a rule set, the rule set being configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media has been accessed,” as recited by claim 1.

Claim 1 recites a method of enabling access to electronic media. A first track of electronic media is accessed from a source. A rule set is accessed from the source, the rule set being configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media is being accessed. The rule set includes an event definition describing an event condition to be monitored during a current media state. The rule set also includes an event transition that relates the event definition to a new media state to enable the new media state to be realized upon detecting the event condition described with respect to the event definition. The occurrence of an event condition described with respect to the event definition in the rule set is detected, and the event transition is performed in response to detecting occurrence of the event condition.

As indicated by the Abstract, Monteiro is directed toward a scalable architecture for delivery of real-time information over a communications network. Monteiro's architecture may include a Network Control Center that provides the information for delivery. See Monteiro at col. 4, lines 25-26. The architecture also includes a primary server that compresses the information into one of two bit rates. See Monteiro at col. 3, lines 11-14. See also Monteiro at col. 5, lines 1-3. The primary servers forward the compressed information to multiple media servers, which may then forward the information to the users. See Monteiro at col. 3, lines 16-22. To adapt to network congestion and packet loss, software on the users' computers may request use a lower data rate to receive the information. See Monteiro at col. 7, lines 26-30. Monteiro's media servers also may dynamically vary the packet size to adapt to changes in network conditions. See Monteiro at col. 7, lines 18-20.

Thus, Monteiro describes an architecture that allows an end user to select to receive data at a lower rate, or allows an intermediary media server to vary packet sizes in response to network congestion. However, Monteiro does not describe or suggest accessing a rule set, from a source from which a first track of electronic media was accessed, the rule set being configured

to respond to an arising condition based on whether the arising condition is met after the first track of electronic media has been accessed, as recited by claim 1. Accordingly, the rejection of claim 1 and its dependent claims should be withdrawn.

The significance of these distinctions is important in a variety of contexts. For example, a content provider may wish to impose rules that instruct a client to access a lower bit rate stream in response to a particular type of network failure and a locally stored file in response to a different type of network failure. In contrast, while Monteiro's architecture adapts to changing network conditions, the end user and an intermediary server adapt to the changed conditions without accessing a rule set from the source of the content.

Independent claims 19 and 31 recite limitations similar to those discussed above with respect to claim 1. As such, the rejection of these claims, as well as their dependent claims, should be withdrawn for the reasons provided above.

Furthermore, like Monteiro, Marks (U.S. Patent Application Publication No. 2001/0053944) and Rowlands (U.S. Patent Application Publication No. 2002/0083346) also fail to describe or suggest "from the source, accessing a rule set, the rule set being configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media has been accessed," as recited by claim 1. Accordingly, the rejections based on these references also should be withdrawn.

Conclusion

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.


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The fee in the amount of \$1020.00 in payment for the Petition for Extension of Time is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account 06-1050.

Respectfully submitted,

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